

**To:** Hatch, Sarah[Hatch.Sarah@epa.gov]  
**Cc:** Gravatt, Dan[Gravatt.Dan@epa.gov]  
**From:** Asher, Audrey  
**Sent:** Mon 9/9/2013 4:23:04 PM  
**Subject:** RE: West Lake Landfill PRP Question  
FW: West Lake Landfill PRP Question

EPA has no decision-making authority with respect to FUSRAP designation. It is EPA's understanding that West Lake was not designated as part of the St. Louis Airport FUSRAP site because neither Congress nor DOE designated it as such. Congress may designate a site for FUSRAP or alternatively, DOE may do so. DOE is responsible for identifying a site as eligible for FUSRAP based on DOE policy. As stated in the policy, DOE examines these criteria:

1. DOE researches historical activities to determine if radioactive contamination is a result of government activities connected with the Manhattan project or AEC activities, typically during the 1940s to early 1960s.
2. Residual radioactive contamination remains at the site at concentrations that exceed current cleanup criteria.
3. The authority to conduct remedial action at the site is prescribed within the Atomic Energy Act, as amended.
4. The site is not subject to remedial action under any other remedial action program nor is residual radioactive contamination addressed under an NRC or state license.

DOE policy stipulates that **all** criteria must be met before it refers the site to the USACE for determination of whether radiological contamination exceeds applicable standards and whether the contamination resulted from Manhattan project or Atomic Energy Commission (AEC) activities. With respect to the West Lake Landfill, EPA had already begun investigating the site as part of the process to list the site on the NPL, which occurred in 1990. Therefore, DOE could have excluded it from FUSRAP designation on that basis alone. But in addition, DOE did not own or use the West Lake landfill property for Manhattan project or AEC activities. Moreover, West Lake was not identified in any Congressional authorization for funding under FUSRAP, unlike the St. Louis Airport sites (see Public Law 98-360 which identifies FUSRAP work at the St. Louis Airport Sites).

We suggest you contact DOE directly for further information.

# Audrey B. Asher

Senior Counsel

United States Environmental Protection Agency – Region VII

11201 Renner Blvd.

Lenexa, KS 66219

Phone: (913) 551-7255

Fax: (913) 551-7925

E-Mail: [asher.audrey@epa.gov](mailto:asher.audrey@epa.gov)